

Health and Safety Essentials

Lecture 3 – Health and Safety Legislation

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**Undergraduate Diploma in
Occupational Health and Safety**

Recap last week's topic

Kahoot Quiz:

<https://play.kahoot.it/v2/lobby?quizId=430e6615-1aa3-4d28-bcab-d66ace0d42c1>



Learning Objectives

- Understand the legal system
- Understand the core principles of Health and Safety legislation.
- Identify key Maltese and EU Health and Safety laws and regulations.
- Analyse the global influence on local OHS regulations.
- Recognise the roles of enforcement agencies in OHS legislation.
- Apply legal knowledge in workplace health and safety scenarios.



Introduction

What is Law and

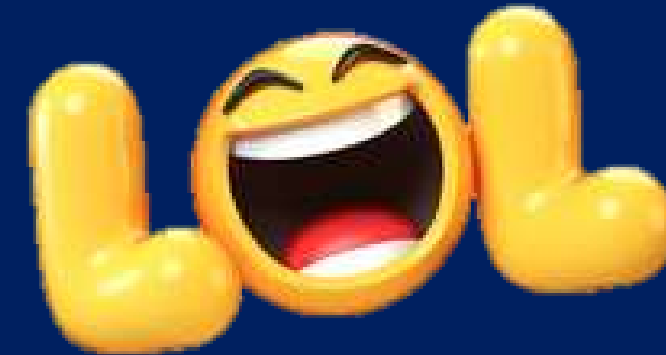
Why
Do We
Need
laws?



Laws - Fun facts

- It is illegal to run very hard in public places in Malta – Well, it makes sense!
- It is illegal to leave an unattended ladder in public – Not for safety reasons but as thieves might use it 🙄
- It is against the law to be drunk and in possession of a cow in Scotland
- In the UK, there is a ban on dying in parliament

Do you know of any others? 😎



Historical Foundations of the Maltese Legal System

- Influence of Foreign Rule:
 - Malta's legal system is shaped by centuries of foreign domination.
 - Notable influences: Knights Hospitaller, French Napoleonic Code, and British Colonial Rule.
- Code de Rohan (1784):
 - Malta's first codification of laws during the rule of the Knights Hospitaller.
 - Replaced by a Maltese version of the Code Napoleon in 1852 under British influence



Development of Malta's Legal Codes

- Key Codifications (mid-19th century):
 - Code of Organisation and Civil Procedure.
 - Criminal Code and Code of Criminal Procedure.
- Sir Adrian Dingli's Contribution:
 - Led the drafting of these codes, heavily influenced by continental law
 - Introduced trial by jury and rights for the accused, inspired by British legal traditions.



Criminal and Civil Law – Dual System in Malta

- Criminal Law:
 - Deals with offenses against the state or society.
 - Punishments: Imprisonment, fines, community service, etc.
 - Governed by the Criminal Code (influenced by continental law with British procedural elements).
- Civil Law:
 - Governs disputes between individuals or entities (contracts, property, family law).
 - Governed by the Civil Code, rooted in Roman law and Napoleonic traditions.



The Influence of UK Common Law on Maltese Law

- Common Law Influence:
 - British common law was never formally adopted.
 - Elements like trial by jury and procedural fairness were incorporated, especially in criminal law.
- Blending with Civil Law:
 - Malta's civil law remains continental (Roman law and Napoleonic Code).
 - UK's influence seen in company law, fiscal law, and constitutional structure.



Historical Context of Health and Safety Laws

- The Industrial Revolution was a starting point.
- Notable disasters that influenced legislation.
 - Triangle Shirtwaist Factory Fire (1911 - US).
 - Seveso Disaster (1976 – Italy - EU).
 - Bhopal Disaster (1984 - India).
 - Piper Alpha Disaster (1988 - UK).
 - Jean Paul Sofia (2022 - Malta).



Malta's Legislative Framework

- Occupational Health and Safety Authority Act (OHSA 2000).
<https://www.ohsa.mt/legislation>
- Some Legal Notices that shaped Malta's Modern OHS landscape:
 - L.N. 91 of 2000 – Protection Of Young Persons...
 - L.N. 92 of 2000 – Protection of Maternity...
 - L.N. 44 of 2002 – Minimum Workplace Requirements...
 - L.N. 36 of 2003 - General Provisions.
 - L.N. 88 of 2018 – Construction (Replaced Regs of 2004 and will be replaced again soon)
 - L.N. 52 of 1986 - Injury reporting requirements.
- NEW: Cap 646 – Act 33 Of 2024 - Health & Safety At Work Act
 - <https://legislation.mt/eli/cap/646/eng>



From Act 27 of 2000 to Act 33 of 2024

Key Improvements

- Increased Penalties
- Introduction of the Health and Safety Reporting Officer (HSRO)
- Expansion of Administrative Penalties
- HSRO Accountability and Criminal Liability
- Broader Range of Offenses
- Employer's Continued Accountability



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Do you think that you are familiar enough with the OHS legislation that are most applicable to your workplace or career path?

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**Mention 1 or 2 Health and Safety
Legal Notices (Malta) you feel most
knowledgeable about.**

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Discussion

- Let's discuss some of the Maltese OHS legislation ...

<https://www.ohsa.mt/legislation>

Break



European Legislation

EU Framework Directive 89/391/EEC

- Introduction of measures to improve the safety and health of workers.
- Applies to all sectors, private or public.
- Employers' responsibility to ensure worker safety.



Key EU Directives Impacting OHS

- Directive 2009/104/EC: Concerning the use of work equipment by workers.
- Directive 2003/88/EC: Concerning certain aspects of the organization of working time.
- Directive 98/24/EC: Concerning the protection of the health and safety of workers from the risks related to chemical agents at work.
- Directive 2000/54/EC: Concerning biological agents at work.



Key Principles of the Framework Directive

- **Employers' Responsibility:** Employers must ensure the health and safety of workers in every aspect related to their work. This includes identifying hazards, conducting risk assessments, and implementing measures to eliminate or reduce risks.
- **Risk Assessment:** Employers must assess the risks that workers are exposed to and take preventive measures to control or minimize these risks. The assessment must be updated regularly to reflect any changes in working conditions or new hazards.



Key Principles of the Framework Directive

- **Preventive Measures:** The directive encourages a proactive approach to safety by prioritising prevention over reactive measures. Employers are required to avoid risks, evaluate unavoidable risks, and combat risks at the source.
- **Training and Information:** Workers must be provided with appropriate training and information related to their health and safety at work. This ensures that employees know potential hazards and how to protect themselves.



Key Principles of the Framework Directive

- **Worker Participation:** Workers or their representatives must be involved in health and safety discussions, allowing them to contribute to the development of safety policies and procedures. This promotes a culture of safety where employees have an active role in managing risks.
- **Health Surveillance:** Employers must provide workers with regular health surveillance, especially when the nature of their work poses significant risks. This allows for early detection of work-related health issues.



Key Principles of the Framework Directive

- **General Safety Principles:** The directive promotes several general principles of prevention, including:
 - Avoiding risks.
 - Evaluating risks that cannot be avoided.
 - Combating risks at their source.
 - Adapting the work to the individual (e.g., in terms of workplace design).
 - Replacing dangerous practices or materials with less hazardous ones.
 - Giving priority to collective protective measures over individual protective measures (e.g., protective equipment).
 - Developing coherent policies for health and safety at work.



Transposing EU Laws into National Law

- How EU laws influence national legislation.
- Malta's approach to transposing EU directives.
- Importance of harmonisation across member states.



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What is the purpose of EU Framework Directive 89/391/EEC

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The Machinery Directive and the Work Equipment Directive are essentially the same thing?

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Breakout Activity – Discuss a Directive

Breakout discussion topic:

- "Discuss how the **Machinery Directive** impacts workplace safety in your country or company."
- "Discuss how the **Work Equipment Directive** impacts workplace safety in your country or company."
- "Discuss how The **Machinery Directive** and the **Work Equipment Directive** are related but distinct pieces of legislation in the European Union (EU) regulatory framework."



Global Health and Safety Legislation

- OSHA (1970) in the US. Health
- Safety at Work Act (1974) in the UK.
- The legal and administrative framework for work safety. China's 2002 Work Safety Law (安全生产法)

Are they important to know about?



Comparison of Global and Maltese Laws



- How Maltese laws align with or differ from global standards?
- How Global best practices adopted in Malta?

Similarities....some examples

- First, all of these frameworks share a common aim: ensuring the **safety and wellbeing of workers**. This is a fundamental principle across all jurisdictions.
- **The EU Framework Directive (1989)** requires employers to take responsibility for the health and safety of workers in every aspect of their work.
- **OSHA (1970)** in the United States aims to assure safe and healthy working conditions for workers through the establishment and enforcement of standards.
- **The Health and Safety at Work Act (1974)** in the UK places a duty on employers to ensure, as far as is reasonably practicable, the health, safety, and welfare of employees.
- Similarly, **China's 2002 Work Safety Law** places a strong emphasis on worker protection, particularly in industries with higher risks, and imposes strict controls on workplace safety.



Similarities....some examples continued...

- These frameworks also establish the **rights and responsibilities of workers**. Employees are expected to comply with safety protocols, while having the right to a safe working environment.
- **In the EU**, workers must follow safety instructions and wear protective equipment where necessary.
- **In the US**, OSHA gives employees the right to refuse unsafe work and report unsafe conditions.
- **In the UK**, employees are required to take reasonable care for their own safety and that of others.
- **In China**, employees must follow safety procedures and participate in safety training as required



Differences

Now, turning to some of the key differences between these frameworks, we can observe variations in their **scope of enforcement**.

- The **EU Framework Directive** sets out **minimum standards** for health and safety across all member states, allowing for some flexibility in national implementation. Enforcement is carried out at the national level, typically by labour inspectorates.
- In the **United States**, OSHA is a **federal agency** that has direct authority to inspect workplaces and impose penalties for violations.
- The **UK's Health and Safety at Work Act** is enforced by the **Health and Safety Executive (HSE)**, which has the power to inspect, prosecute, and enforce regulations.
- **China's Work Safety Law** places enforcement in the hands of **local and regional authorities**, with particular focus on high-risk industries like mining and manufacturing, where penalties for non-compliance are particularly stringent.



Differences continued...

Additionally, the **legal and cultural contexts** shape how these regulations are applied in practice.

- **In the EU**, the Framework Directive is part of a broader system of labour rights that promotes **social dialogue** between employers and workers. It encourages cooperation in improving workplace safety.
- **In the US**, OSHA adopts a more **prescriptive approach**, with highly detailed regulations tailored to different industries.
- **The UK's Act** tends to be more **principle-based**, focusing on general duties of care rather than on specific technical regulations. This allows for flexibility in applying safety measures.
- **In China**, the law reflects a more **centralised and government-controlled** approach, particularly in its focus on ensuring safety in dangerous industries.



Differences continued...

Finally, the approach to **penalties and enforcement** also varies significantly:

- **In the EU**, the penalties for non-compliance are determined by each member state and can vary.
- **In the US**, OSHA imposes strict penalties, including fines and, in some cases, criminal charges.
- **In the UK**, the HSE can impose both **civil and criminal penalties**, including imprisonment for serious breaches.
- **In China**, penalties are often **severe**, especially in industries with higher risks, where heavy fines, imprisonment and on rare cases capital punishments are used as deterrents.



Enforcement & Compliance

- Occupational Health and Safety Authority (OHSA) in Malta.
- European Agency for Safety and Health at Work.
- HSE in the United Kingdom
- OSHA in the United States.



Penalties for Non-Compliance

Aspect	Act 27 of 2000	Act 33 of 2024
Maximum Fines	Fines vary based on the severity of the breach. Generally lower, from €465 up to €11,000.	Fines significantly increased, from €1000 up to €50,000 for major breaches including non-appointment of HSRO.
HSRO Responsibilities	No specific mention of HSRO responsibilities.	HSRO must report non-compliance and is criminally liable for failure to do so.
Employer's Liability	Employers remain liable even with external contractors.	Employers remain fully liable, but the HSRO is also accountable for their designated duties.
Administrative Penalties	Limited administrative penalties; mostly reliant on judicial processes.	Extensive administrative penalties; the Executive has the authority to issue fines and directives.
Criminal Liability for HSRO	Not explicitly mentioned.	Explicit penalties for HSRO negligence, with potential criminal liability for non-compliance.
Offences Covered	General employer and employee breaches of health and safety.	Covers a wider range of offences, including administrative breaches like failure to follow directives.

- Penalties and fines for H&S violations.
- Notable legal cases of non-compliance.



Penalties – potential imprisonment

- Under Act 27 of 2000, offences could lead to imprisonment for up to **two years**.
- Under Act 33 of 2024, the penalty is harsher. For any offence against the Act or its regulations, a person can face imprisonment of up to **four years**.



Practical Compliance

- **How can companies ensure compliance?**

"It's one thing to know the law, but quite another to ensure compliance. Companies need to be proactive. Regular audits, inspections, and maintaining a safety culture are key to avoiding any legal repercussions and, more importantly, keeping workers safe."

How do you ensure compliance?



Recap of Key Points

- The importance of OHS legislation.
- Maltese, H&S legislation
- EU and global perspectives.
- Enforcement and practical compliance.





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